

ASSEMBLY BILL

No. 2313

Introduced by Assembly Member Chu

February 21, 2002

An act to amend Sections 14030.1, 14030.2, 14037.6, 14045, 14075, and 14076 of the Corporations Code, and to amend and renumber Section 15346.10 of, and to repeal Section 15346.12 of, the Government Code, relating to economic development, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2313, as introduced, Chu. Economic development.

(1) Existing law, the Small Business Financial Development Corporation Law, creates the California Small Business Expansion Fund, which is continuously appropriated. Under existing law, this fund may be used to prevent business insolvencies and loss of employment in an area affected by a disaster declared by the President of the United States or the Administrator of the United States Small Business Administration, or a state of emergency declared by the Governor of California. Within the California Small Business Expansion Fund is the Small Business Disaster Recovery Loan Loss Reserve Account that may be used for these same purposes in an area affected by a specified state of emergency that began in the Los Angeles area on April 29, 1992, and related incidents throughout the state that have been declared a disaster by any of these officials.

This bill would expand the circumstances under which funds in this account may be used by deleting its current restrictions and allowing its use in an area affected by a disaster declared by the President or the United States Secretary of Agriculture or to be in a state of emergency

declared by the Governor. The bill would also correspondingly revise the circumstances under which moneys in the fund may be used in response to emergency situations, including those declared a disaster by the United States Secretary of Agriculture and deleting those declared by the Administrator of the United States Small Business Administration. Because the bill would authorize the expenditure of revenue in a continuously appropriated fund for a new purpose, it would thereby make an appropriation.

(2) Existing law, the California Defense Retention and Conversion Act of 1999, requires the Technology, Trade, and Commerce Agency to establish a Defense Retention Grant Program to provide funds to communities with military bases for the development of a strategy to retain these facilities.

This bill would delete provisions declaring the Legislature's intent regarding the amount of starting capital for the grant program and limiting the amount of the grant made by the agency under this program.

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14030.1 of the Corporations Code is
2 amended to read:
3 14030.1. (a) There is hereby created in the State Treasury the
4 Small Business Disaster Recovery Loan Loss Reserve Account, as
5 part of the expansion fund. This account shall be used to pay for
6 unrecovered losses resulting from loan guarantees issued pursuant
7 to subdivision (a) of Section 14075 and subdivision (b) of this
8 section and disaster loan guarantees issued prior to the effective
9 date of this section that are in default. Any lending institution that
10 issues a low-interest loan that is guaranteed by resources in this
11 account shall be fully reimbursed for the guaranteed portion of
12 principal and interest that result from a loan or loans that are in
13 default. ~~In the event that~~ If there are insufficient funds in this
14 account to fully satisfy all claimants, ~~then~~ the full faith of the
15 resources in the General Fund are pledged to satisfy the obligations
16 of this account. This account may only guarantee as much loan
17 dollar value as is specifically authorized by the Director of Finance
18 with the concurrence of the Governor. This account shall receive
19 all moneys transferred pursuant to Section 14037.6, and any



unencumbered balances transferred to the California Small Business Expansion Fund pursuant to Chapters 11 and 12 of the Statutes of 1989, First Extraordinary Session, and Chapter 1525 of the Statutes of 1990, as of July 1, 1992.

(b) The Governor should utilize this authority to prevent business insolvencies and loss of employment in an area affected by a state of emergency ~~that began in the Los Angeles area on April 29, 1992, and incidents subsequent thereto, and resulting therefrom, throughout~~ within the state and declared a disaster by the President of the United States, ~~or by the Administrator of the United States' Small Business Administration, or by the United States Secretary of Agriculture~~ or *declared to be in a state of emergency* by the Governor of California.

SEC. 2. Section 14030.2 of the Corporations Code is amended to read:

14030.2. (a) The director may establish accounts within the expansion fund for loan guarantees and surety bond guarantees, including loan loss reserves. Each account is a legally separate account, and shall not be used to satisfy loan or surety bond guarantees or other obligations of another corporation. The director shall recommend whether the expansion fund and corporate fund accounts are to be leveraged, and if so, by how much. Upon the request of the corporation, the director's decision may be repealed or modified by a board resolution.

(b) Annually, not later than January 1 of each year commencing January 1, 1996, the director shall prepare a report regarding the loss experience for the expansion fund for loan guarantees and surety bond guarantees for the preceding fiscal year. At a minimum, the report shall also include data regarding numbers of surety bond and loan guarantees awarded through the expansion fund, including ethnicity and gender data of participating contractors and other entities, and experience of surety insurer participants in the bond guarantee program. The director shall submit that report to the ~~secretary~~ *Secretary of the Technology, Trade, and Commerce Agency* for transmission to the Governor and the Legislature.

SEC. 3. Section 14037.6 of the Corporations Code is amended to read:

14037.6. (a) (1) The Director of Finance, with the approval of the Governor, may transfer moneys in the Special Fund for

1 Economic Uncertainties to the *California* Small Business
2 Expansion Fund for use by the Office of Small Business in the
3 Technology, Trade, and Commerce Agency, in an amount
4 necessary to make loan guarantees pursuant to this chapter.
5 However, no more than five million dollars (\$5,000,000) may be
6 transferred pursuant to this section in connection with any single
7 declared disaster.

8 (2) The Director of Finance, or his or her designee, within 30
9 days of any transfer made pursuant to this section, shall provide
10 notice of the amount of the transfer to the chair of the Joint
11 Legislative Budget Committee and the chair of the committee in
12 each house that considers appropriations.

13 (b) The Governor should utilize this authority to prevent
14 business insolvencies and loss of employment in an area affected
15 by a state of emergency ~~throughout~~ *within* the state and declared
16 a disaster by the President of the United States; or by the
17 ~~Administrator of the United States Small Business~~
18 ~~Administration, Secretary of Agriculture or declared to be in a~~
19 *state of emergency* by the Governor of California.

20 (c) This section shall remain in effect until January 1, 2007, and
21 as of that date is repealed, unless a later enacted statute, which is
22 enacted before January 1, 2007, deletes or extends that date.

23 SEC. 4. Section 14045 of the Corporations Code is amended
24 to read:

25 14045. Upon approval by the director to become a
26 corporation, the entity shall adopt or amend its articles of
27 incorporation to comply with the following:

28 (a) The name of the corporation shall include the words “small
29 business *financial* development corporation,” except for those
30 corporations formed pursuant to this part prior to 2002, *which may*
31 *also be called “small business development corporations,” or*
32 *those formed prior to 1985, which may also be called “rural or*
33 *urban development corporations.”*

34 (b) The purposes for which the corporation is formed, which
35 shall be those specified in Section 14002. This requirement shall
36 not be deemed to preclude a statement of powers.

37 (c) A geographical description of the corporation’s service
38 area.

1 (d) The name and addresses of seven or more persons who are
2 to act in the capacity of directors until the selection of their
3 successors.

4 (e) That the corporation is organized pursuant to the California
5 Small Business *Financial* Development Corporation Law.

6 SEC. 5. Section 14075 of the Corporations Code is amended
7 to read:

8 14075. (a) A corporation may, in an area ~~designated as a~~
9 ~~disaster area~~ *declared to be in a state of emergency* by the
10 Governor, provide loan guarantees from funds allocated in Section
11 14037.5 to small businesses, small farms, nurseries, and
12 agriculture-related enterprises that have suffered actual physical
13 damage or significant economic injury as a result of the disaster.

14 (b) The agency may adopt regulations to implement the loan
15 guarantee program authorized by this section. The agency may
16 adopt these regulations as emergency regulations in accordance
17 with Chapter 3.5 (commencing with Section 11340) of Part 1 of
18 Division 3 of the Government Code, and for purposes of that
19 chapter, including Section 11349.6 *of the Government Code*, the
20 adoption of the regulations shall be considered by the Office of
21 Administrative Law to be necessary for the immediate
22 preservation of the public peace, health and safety, and general
23 welfare. Notwithstanding subdivision (e) of Section 11346.1 of
24 the Government Code, the regulations shall be repealed within 180
25 days after their effective date unless the agency complies with
26 Chapter 3.5 (commencing with Section 11340) of Part 1 of
27 Division 3 of the Government Code, as provided in subdivision (e)
28 of Section 11346.1 of the Government Code.

29 (c) Allocations pursuant to subdivision (a) shall be deemed to
30 be for extraordinary emergency or disaster response operations
31 costs incurred by the office.

32 SEC. 6. Section 14076 of the Corporations Code is amended
33 to read:

34 14076. (a) It is the intent of the Legislature that the
35 corporations make maximal use of their statutory authority to
36 guarantee loans and surety bonds, including the authority to secure
37 loans with a minimum loan loss reserve of only 25 percent, unless
38 the office authorizes a higher leverage ratio for an individual
39 corporation pursuant to subdivision (c) of Section 14037, so that
40 the financing needs of small business may be met as fully as

possible within the limits of corporations' loan loss reserves. The agency shall report annually to the Legislature on the financial status of the corporations and their portfolio of loans and surety bonds guaranteed.

(b) Any corporation that serves an area declared *to be in a state of emergency* by the Governor or *a disaster area* by the President ~~to be a disaster area on or after January 1, 1992, or the area affected by the state of emergency declared in Los Angeles on April 29, 1992,~~ *United States Secretary of Agriculture* shall increase the portfolio of loan guarantees where the dollar amount of the loan is less than one hundred thousand dollars (\$100,000), so that at least 15 percent of the dollar value of loans guaranteed by the corporation is for those loans. The corporation shall comply with this requirement within one year of the date the *emergency or* disaster is declared, ~~or January 1, 1995, whichever is later.~~ Upon application of a corporation, the director may waive or modify the rule for the corporation if the corporation demonstrates that it made a good faith effort to comply and failed to locate lending institutions in the region that the corporation serves that are willing to make guaranteed loans in that amount.

SEC. 7. Section 15346.10 of the Government Code, as added by Chapter 425 of the Statutes of 1999, is amended and renumbered to read:

~~15346.10.~~

15346.11. The *Technology, Trade, and Commerce Agency*, with input and assistance from the council, shall establish a Defense Retention Grant Program to grant funds to communities with military bases to assist them in developing a retention strategy. The agency may use grant criteria similar to those for existing defense conversion grant programs as a basis for developing the new grant program. To discourage multiple grant applications for individual defense installations in a region, the criteria shall be drafted to encourage a single application for grant funds to develop, where appropriate, a single, regional defense retention strategy. The structure, requirements, administration, and funding procedures of the grant program shall be submitted to the Legislature for review at least 90 days prior to making the first grant disbursement. The agency may make no grant award without the local community providing at least 50 percent or more in matching funds or in-kind services.

1 SEC. 8. Section 15346.12 of the Government Code, as added
2 by Chapter 952 of the Statutes of 1998, is repealed.

3 ~~15346.12. The agency shall establish, with the appropriation~~
4 ~~of additional resources for this purpose, a Defense Retention Grant~~
5 ~~Program to grant funds to communities with military bases to~~
6 ~~assist them in developing a retention strategy. The agency shall~~
7 ~~administer the grant program. It is the intent of the Legislature that~~
8 ~~the grant program shall begin with one million eight hundred~~
9 ~~thousand dollars (\$1,800,000) in startup capital. The agency may~~
10 ~~make no grant in excess of fifty thousand dollars (\$50,000) with~~
11 ~~the local community providing two-thirds matching funds or~~
12 ~~in-kind services. The structure, administration, and funding~~
13 ~~procedures of the grant program shall be submitted to the~~
14 ~~Legislature for review at least 90 days prior to making the first~~
15 ~~grant disbursement.~~

